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June 6, 2016

To: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: Sachi A. Hamai
Chief Executive Officer

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MOTION TO SEND A FIVE-SIGNATURE LETTER TO GOVERNOR BROWN AND THE STATE LEGISLATIVE LEADERSHIP URGING THEIR SUPPORT OF AB 2442 (HOLDEN), WHICH WOULD ALLOW A MULTIPLE DENSITY BONUS FOR THE DEVELOPMENT OF HOUSING UNITS FOR TRANSITIONAL FOSTER YOUTH, DISABLED VETERANS, OR FORMERLY HOMELESS INDIVIDUALS (ITEM NO. 4, AGENDA OF JUNE 8, 2016)

Item No. 4 on the June 8, 2016 Agenda is a motion by Supervisor Antonovich recommending that the Board of Supervisors send a five signature letter to the Governor and the legislative leadership urging them to support AB 2442 to allow a Multiple Density Bonus to be obtained by a housing developer if the developer agrees to set aside ten percent of the units in their development for transitional foster youth, disabled veterans, or formerly homeless individuals.

AB 2442 (Holden) Legislation Related to Density Bonuses

AB 2442 (Holden), which as amended on April 14, 2016, would: 1) require a density bonus to be provided to a developer that agrees to construct a housing development that includes at least ten percent of the total units for transitional foster youth, disabled veterans, or homeless persons, as defined; 2) require that these units be subject to a recorded affordability restriction of 55 years and be provided at the same affordability level as very-low-income units; 3) set the density bonus at 20 percent of the number of these units; and 4) state that no reimbursement is necessary because a local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

The State Density Bonus Law requires cities and counties to grant a density bonus and other incentives to an applicant for a housing development or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very-low-income, low-income, or moderate-income households or qualifying residents.

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Specifically, the law requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least any one of the following:

- ten percent of the total units for lower-income households;
- five percent of the total units of a housing for very-low-income households;
- a senior citizen housing development or mobile home park; and
- ten percent of the units in a common-interest development (CID) for moderate-income households.

Existing law also requires the city or county to allow an increase in density of 20 percent over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan for low-income, very-low-income, or senior housing, and by five percent for moderate-income housing in a CID. The increase in density and other incentives are intended to financially support the inclusion of the affordable units.

AB 2442 is supported by Bonita Unified School District, David & Margaret Youth and Family Services, and Los Angeles County Supervisor Michael D. Antonovich. There is no opposition on file.

AB 2442 passed the Assembly by a vote of 63 to 8 on May 19, 2016. The measure has been referred to the Senate Transportation and Housing Committee. A hearing date has not been set.

Analysis

The Department of Regional Planning (DRP) does not oppose the concept of the bill or including transitional-aged foster youth, homeless persons, and veterans into the density bonus framework; however, DRP has expressed several concerns regarding the provisions of AB 2442. DRP reports that the bill is unnecessary because transitional-aged foster youth, homeless persons, and veterans are already captured by the different income categories in existing law, primarily in the very-low- and low-income categories. The Department of Regional Planning also notes that it is unlikely that a developer would provide a ten percent set aside for these specific populations when, under current law, they could provide a five or ten percent set aside under the very-low- and low-income categories. Therefore, it may actually dis-incentivize set-asides for these populations. DRP indicates that revisions to AB 2442 are necessary if the targeted groups are to benefit from the State Density Bonus Law.

The Department also notes that AB 2442 is one of several bills in the current session that propose to amend the State Density Bonus Law, which has been amended twice in the last

Each Supervisor
June 6, 2016
Page 3

three years. The recent changes attempt to resolve certain issues with the law or address concerns, but does so in a way that is not comprehensive, and results in DRP having to amend the County's Title 22 (Zoning Code). The Department of Regional Planning reports that the State would be better served by taking a comprehensive, rather than piecemeal, approach to amending the State Density Bonus Law, which should include extensive collaboration with local jurisdictions like the County.

Finally, the Department notes that the bill may raise fair housing implications, as it requires that a percentage of units be set aside for certain users. Typically, the use is regulated, not the user. The bill also does not provide any guidance on how the set-aside and density bonus would increase on a sliding scale, as it does for the other categories, and would create some confusion.

The Department of Regional Planning recommends supporting this bill if amended to provide a specific density bonus for transitional-aged foster youth, homeless persons, and veterans that matches the density bonus and provides for the same incentives/concessions already provided in the law for those in the very-low-income, low-income, and moderate-income categories.

Conclusion

The Department of Regional Planning recommends supporting AB 2442 if it is amended to specifically benefit the targeted community of transitional-aged foster youth, homeless persons, and veterans, which is consistent with Board-approved policy to support proposals that provide incentives to local governments and/or developers to increase and protect affordable housing and flexibility for counties to promote a diversity of affordable housing types through local policies. However, the County's State Legislative Agenda also contains policies to: 1) oppose legislation that infringes upon county board of supervisors' local land use decision-making authority; and 2) oppose legislation that would constitute State unfunded land use and general plan-related mandates on local governments. **Therefore, support of this motion is a matter for Board policy determination.**

SAH:JJ:MR
AO:gl

c: Executive Office, Board of Supervisors
County Counsel